

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

EDWARD AGOSTINELLI, et al.,

Plaintiffs

vs.

FIFTH THIRD BANK, et al.,

Defendants.

CIVIL ACTION NO. 10-0294-CG-B

ORDER

This cause is before the court on the Joint Stipulation of Dismissal of Counterclaim filed by the plaintiffs and defendant Fifth Third Bank on February 2, 2012 (Doc. 123), and on the failure of plaintiffs and defendant Equifax Information Services, LLC (“Equifax”) to file a status report with respect to the remaining claims by February 3, 2012, as directed in the court’s order dated January 27, 2012 (Doc. 122).

The stipulation filed on February 2, 2012, is not signed by counsel for Equifax, the sole remaining defendant in this action, pursuant Rule 41(a) of the Federal Rules of Civil Procedure. If no opposition to the stipulation is filed by Equifax **on or before February 14, 2012**, Fifth Third Bank's counterclaim against the plaintiffs will be dismissed with prejudice as of February 14, 2012, with each of the parties to bear their own costs, attorney's fees and expenses, without further order of the court pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

Because the court is not certain of the status of the plaintiffs' claims against defendant Equifax, this case will proceed against Equifax under the schedule as set forth in the Amended Scheduling Order issued on May 20, 2011 (Doc. 78).

DONE and ORDERED this 7th day of February, 2012.

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE